UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,160	10/30/2003	Shigeharu Kanemoto	IS8-045	1621

21567 7590 02/08/2007

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

EXAMINER	
MAHAFKEY, KELLY J	
ART UNIT	PAPER NUMBER
1761	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/699,160	KANEMOTO ET AL.	
	Examiner	Art Unit	
	Kelly Mahafkey	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11/15/06*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/15/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Amendments made 11/15/06 have been entered.

Claims 1-14 are pending.

Claim Rejections - 35 USC § 112

The text of those sections not included in this action can be found in a prior Office action.

The 112 rejection of claim 1, specifically with regard to the phrase "a moisture content higher than a moisture content after final drying" in claim 1 is hereby withdrawn.

Claims 1-5 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is incorporated herein and as cited in the office action mailed May 15, 2006.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. (5275836) in view of the combination of Walton (http://waltonfeed.com/self/rice.html 7/8/01 date obtained from http://web.archive.org) and Ogawn (Abstract Only JP92006330B). The references and rejection are incorporated herein and as cited in the office action mailed May 15, 2006. Regarding the additional limitation, of a vertical milling, as recited in claim 6, Lewis teaches of milling with a horizontal milling machine (Example). Furthermore, it was known in the art, at the time the invention was made to mill with both vertical and horizontal machines. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute one art recognized functional equivalent (i.e. a vertical milling machine) for another (i.e. a horizontal milling machine) in the rice production process as disclosed by Lewis. This would not have involved an inventive step, and do not provide patentable distinction to the claims. Thus, the claimed invention would have

been obvious, absent any clear and convincing evidence and/or arguments to the contrary. Regarding the additional limitation of performing the rice immersion steps with different apparatus, it was known in the art to produce rice in a continuous process. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a different immersion apparatus for the primary immersion step and for the secondary immersion step in order to obtain a continuous production line. To make a batch process continuous would not impart a patentable distinction to the claims. Regarding the additional limitations of a water removing step after the immersion steps, as recited in claims 8-10, applicant is referred to Lewis, Examples, in which Lewis teaches removal of water (i.e. drying) after the immersion step.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. (5275836) in view of the combination of Walton (http://waltonfeed.com/self/rice.html 7/8/01 date obtained from http://web.archive.org) and Ogawn (Abstract Only JP92006330B), further in view of Mathews (US 3759380).

Lewis teaches of a process for producing rice, including a final step of drying the rice. Lewis, however, is silent to the method of drying the rice. Thus, one would have been motivated to look to the art of drying, such as Mathews, in order to determine a method for drying the rice as taught by Lewis. Mathews teaches of an improved method for drying grains, such as rice, by providing the grains on a screen, ejecting air toward the screen and the grains, and vibrating the screen (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the drying method as taught by Mathews in the method of producing rice as taught by Lewis. One would have been motivated to do so because Lewis teaches of drying the rice, without providing a method for doing so, and because Mathews teaches of an improved method for drying grains, such as rice.

Response to Arguments

Applicant's arguments filed November 15, 2006, in regards to the 112 rejections of claims 1-5 have been fully considered but they are not persuasive.

In applicant's response to the rejections under 35 USC 112 2nd paragraph, at pages 7-9 of the response applicant states that "the Examiner has not presented evidence that the Examiner is one possessing the ordinary level of skill in the art" (bottom pg. 8). This is not deemed persuasive for the reasons of record. It has been widely held that the Examiner need not be "one of skill in the art", in order to assess the enablement and definiteness of the claimed invention. It is the charge of the Examiner to assess whether a claim is definite, and whether a set of terms has been sufficiently defined and supported by the specification. Thus applicant's arguments are unfounded and not well taken.

Furthermore, applicant has not specifically addressed *any* of the rejections under this statute, and thus the rejections are maintained for the reasons of record. Applicant refers to a declaration filed under 37 CFR 1.56 (at page 8 of the response); however, no such declaration has been found on the record. The Examiner has set forth a clear and reasonable explanation as to why the claims are indefinite. If applicant feels that the rejected phrases are, in fact, clear and supported by the specification, they are encouraged to demonstrate such on the record, whether by referring to passages of the specification which provide such support, or providing a reasoned line of arguments as to why one of skill in the art would indeed find the claims definite and unambiguous, or by other means.

Applicant's arguments filed November 15, 2006, in regards to the prior art rejections of claims 1-5 have been fully considered but they are not persuasive.

In response to applicant's argument that knowledge generally available to one of skill in the art cannot be used in the rejection, applicant is referred to *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the

claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

Applicant argues that the references do not teach of a secondary immersion, a secondary alpha type conversion step, or a final drying step. The applicant is referred to Ogawn, Abstract and Uses, in which Ogawn teaches of a secondary immersion, a secondary alpha type conversion step, or a final drying step.

Applicant argues that it was not well known in the art to parboil rice prior to polishing. As evidenced by Wikipedia.com (http://en.wikipedia.org/wiki/Parboiled_rice) and Walton, it was known to parboil rice prior to polishing (Page 1, paragraph 2 Wikipedia and Page 2, paragraph 2 of Walton). This supports the position of the office, as stated in the previous action.

Applicant argues that there was no teaching in the prior art or in the knowledge available to one of skill in the art to separate rice into since grains. As evidenced by Mathews (US 3759380) it was known in the art to separate rice into single grains (Abstract). Such a process was done in order to prepare the rice for packaging and storage. This supports the position of the office, as stated in the previous action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Mahafkey whose telephone number is (571) 272-2739. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kelly Mahafkey
Examiner
Art Unit 1761

KEITH HENDRICKS
PRIMARY EXAMINER